

MINUTES OF THE SPECIAL MEETING OF THE SHOW LOW BOARD OF ADJUSTMENT HELD ON JULY 13, 2022, AT 3:00 P.M. IN THE CITY COUNCIL CHAMBERS, 181 NORTH 9TH STREET, SHOW LOW, NAVAJO COUNTY, ARIZONA.

1. Call to Order.

Chairman Jarrett called the meeting to order 3:00 p.m.

2. Roll Call.

BOARD MEMBERS PRESENT: Michael Gibson, John Jarrett, James Zimmerman, Bill Johnson and John Hannah.

BOARD MEMBERS ABSENT: None.

STAFF MEMBERS PRESENT: Justen Tregaskes, Planning and Zoning Director; Morgan Brown, City Attorney; Katie Fechtelkotter, Planner; and Nicole Hudson, Deputy City Clerk.

GUESTS PRESENT: Michael (Cash) Striplin, Roberta Raulston, Anne Davis, Gary and Donna Slowik, Ben Davies, and others.

3. Pledge of Allegiance.

Board Member Johnson led the Council and audience in the pledge of allegiance.

4. PUBLIC HEARING – Consideration of a variance application submitted by Michael & Arlyne Striplin seeking relief from City Code Chapter 19.80.070D(11), Required Setbacks, for 1961 N. Covered Wagon Loop, that being A.P. No. 309-70-046.

Mrs. Fechtelkotter said Michael and Arlyne Striplin had submitted a variance application seeking relief from City Code 19.80.070D(11), Required Setbacks, for 1961 North Covered Wagon Loop, that being A.P. No. 309-70-046. The subject property was zoned P.U.D. (Planned Unit Development), was generally flat, and was approximately 9,148 square feet in size. P.U.D. setbacks were established at the time of final plat.

Mrs. Fechtelkotter said the final plat for this property indicated a twenty (20) foot minimum building envelope from the street-side property line, not the actual street. Based on city permit records, the existing home was approximately 1,890 square feet, with a 320 square foot porch and an existing 528 square foot garage, completed in 2004.

Mrs. Fechtelkotter said on August 12, 2019, the Board of Adjustment (B.O.A.) considered a variance for a 330 square foot garage addition, several lots away from

the subject property at 1991 North Covered Wagon Loop, that being A.P.N. 309-70-049. At the variance hearing, the Bison Ridge Owners Association (Association) testified that they approved the garage extension with an 11-foot front setback because the garage was setback more than 20 feet from the street. Based on this testimony from the Association, the B.O.A. decided to grant the variance.

Mrs. Fechtelkotter said the Striplins had requested a 17-foot variance to build a 440-square-foot addition onto the existing garage. The garage would be located three feet from the property line and 16 feet from the street. The applicant had provided a site plan of the proposed addition, letters of support from property owners within the subdivision, and a copy of a letter from the Bison Ridge Architectural Committee indicating approval of the extension.

Mrs. Fechtelkotter said based on the previously approved variance, staff recommended that if the B.O.A. decided to approve this request, it would be for a 13-foot variance, provided the garage was a minimum of 20 feet from the street.

Mrs. Fechtelkotter said in accordance with City Code, the property was posted, a notice was published in the newspaper, and letters were sent to all property owners within 300 hundred feet of the subject property. Staff received one phone call from a neighbor expressing support for the variance.

Mrs. Fechtelkotter said Arizona Revised Statute § 9-462.06 governed variances and outlined the state requirements for the granting of a variance. Section G stated that the board of adjustment shall:

1. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the zoning administrator in the enforcement of a zoning ordinance adopted pursuant to this article.
2. Hear and decide appeals for variances from the terms of the zoning ordinance only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located.
3. Reverse or affirm, in whole or in part, or modify the order, requirement or decision of the zoning administrator appealed from, and make the order, requirement, decision or determination as necessary.

Mrs. Fechtelkotter said Section H stated that the board shall NOT:

1. Make any changes in the uses permitted in any zoning classification or zoning district or make any changes in the terms of the zoning ordinance provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this article.
2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

Mrs. Fechtelkotter said in addition, Chapter 19.135.050 of the City Code outlined the requirements for approving a variance.

- (A) The purpose of a variance is to restore equity when, due to special circumstances or conditions, this title restricts one (1) property more severely than other properties in the same zoning district. The circumstances or conditions must be beyond the control of the owner and relate to the property as opposed to the owner. Personal hardship or inconvenience does not justify a variance. The burden of proof is on the property owner.
- (B) The board of adjustment shall make the following findings based on the evidence in the record prior to granting a variance:
 - (1) There are special circumstances or conditions applicable to the property including its size, shape, topography, location, or surroundings which were not self-imposed by the owner;
 - (2) Due to the special circumstances, the strict application of the zoning ordinance would deprive the property of privileges enjoyed by other properties in the same classification in the same zoning district;
 - (3) The variance is the minimum necessary to alleviate the property hardship;
 - (4) Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the city in general; and
 - (5) In granting a variance, the board shall impose such conditions and safeguards as are appropriate to ensure that the purpose and intent of this chapter will be fulfilled.
- (C) The board of adjustment shall not grant a variance when:
 - (1) The special circumstances applicable to the property are self-imposed by the owner. This includes:
 - (a) A hardship that has been intentionally, knowingly, or recklessly created.

- (b) The failure of the owner to consider other reasonable alternatives which do not require a variance.
- (2) The variance would constitute a change to the uses permitted in any zoning district.
- (3) The variance would constitute a grant of special privileges inconsistent with the limitations on other properties in the zoning district.
- (4) No nonconforming use or violations of this chapter with respect to neighboring lands, structures, or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other zoning districts, shall be considered grounds for granting a variance.

Ms. Fechtelkotter read the findings of fact.

1. Michael & Arlyne Striplin had submitted a variance application seeking relief from City Code 19.80.070D(11) Required Setbacks, for 1961 North Covered Wagon Loop, that being A.P. No. 309-70-046.
2. The subject property was zoned P.U.D. (Planned Unit Development), was generally flat and was approximately 9,148 square feet in size. P.U.D. setbacks were established at the time of final plat.
3. The final plat for this property indicated a twenty (20) foot minimum building envelope from the street-side property line, not the actual street. Based on city permit records, the existing home was approximately 1,890 square feet, with a 320 square foot porch and an existing 528 square foot garage, completed in 2004.
4. On August 12, 2019, the Board of Adjustment (B.O.A.) considered a variance for a for a 330 square foot garage addition several lots away from the subject property at 1991 North Covered Wagon Loop, that being A.P.N. 309-70-049. At the variance hearing, the Bison Ridge Owners Association (Association) testified that they approved the garage extension with an 11-foot front setback because the garage was setback more than 20 feet from the street. Based on this testimony from the Association, the B.O.A. decided to grant the variance.
5. The Striplins had requested a 17-foot variance to build a 440-square-foot addition onto the existing garage. The garage would be located three feet from the property line and 16 feet from the street. The applicant had provided a site plan of the proposed addition, letters of support from property owners within the subdivision, and a copy of a letter from the Bison Ridge Architectural Committee indicating approval of the extension.

6. Based on the previously approved variance, staff recommended that if the B.O.A. decided to approve this request, it would be for a 13-foot variance, provided the garage is a minimum of 20 feet from the street.
7. In accordance with City Code, the property was posted, a notice was published in the newspaper, and letters were sent to all property owners within 300 feet of the subject property. Staff received one phone call from a neighbor expressing support for the variance.
8. The current zoning of the surrounding properties included:

North: PUD (Planned Unit Development)
South: PUD (Planned Unit Development)
East: PUD (Planned Unit Development)
West: PUD (Planned Unit Development)
9. The current land uses of the surrounding properties included:

North: Bison Ridge Unit 1
South: Bison Ridge Unit 1
East: Bison Ridge Resort Cabins
West: Bison Ridge Unit 1
10. Transmittal memos were sent to all affected agencies. No applicable comments were received.
11. The property was posted, a notice was published in the newspaper and letters were sent to all property owners within 300 feet of the subject property. Staff received a phone call from a neighbor expressing support for the variance.

Ms. Fechtelkotter read the staff recommendations.

Michael & Arlyne Striplin had submitted a variance application seeking relief from City Code 19.80.070D(11), Required Setbacks, for 1961 North Covered Wagon Loop, that being A.P. No. 309-70-046. Should the Board determine that the request does meet the requirements for a variance; the motion should state the reasons for doing so. After reviewing the application, staff report, city code, and testimony from the applicant, the Board of Adjustment shall:

1. Deny the variance on the basis that the variance request does not meet the requirements for a variance as outlined in Chapter 19.135.050, because the request is self-imposed by the owner, knowingly created and there are no special circumstances or conditions applicable to the property including its size, shape topography, location, or surroundings applicable to the property creating a hardship that deprives the property from complying with the ordinance.

OR

2. If, after reviewing the application, the staff report, city code, state statute, testimony from the applicant and comments from the public hearing, the Board determines that this application meets the requirements for a variance as outlined in Chapter 19.135.050, the Board may grant a 13-foot variance, provided the garage is located a minimum of 20 feet from the street, if the Board determines a special circumstance or property hardship is applicable to the property. The Board may impose conditions on the granting of a variance to ensure the purpose and intent of the Ordinance is met. If the Board grants the variance, the motion should include the justification in doing so.

Mr. Tregaskes said option two allowed the Board to impose conditions that would help address concerns including requiring the garage to be located outside of any easements that may be located on the property.

Chairman Jarrett opened the matter for a public hearing.

The applicant, Cash Striplin, said the request for the variance was due to the size of the current garage. The size was too small for two vehicles to occupy the garage. Mrs. Striplin's knee issues required the need for Mrs. Striplin to open her car door entirely to enter and exit the vehicle which was nearly impossible to accomplish when two vehicles occupied the garage.

Mr. Striplin said the utility companies had marked the location of the utilities. All utilities were located on the opposite side of the driveway from where the proposed garage would be built except for the gas line, which was located on the same side of the proposed garage but not near the construction site for the proposed garage.

Mr. Striplin said he preferred the 17-foot variance as opposed to staff's recommendation of the 13-foot variance because it would match the size of the current garage and would look uniform. While that was his preference, he would not be opposed to the 13-foot variance.

Chairman Jarrett asked Mr. Striplin to clarify the hardship of the current garage. Mr. Striplin said it was a 90-degree turn from the driveway into the garage which meant that parking straight in the garage was difficult but also parking two vehicles in the garage made it difficult for Mrs. Striplin to fully open her car door to enter and exit.

Chairman Jarrett asked where the location of the new garage door would be placed. Mr. Striplin said it would be placed side-by-side in the same direction as the current garage which meant that the garages would share a common wall. He said a second garage, while still having to make a 90-degree turn into each garage, would allow each of them to park their vehicles in separate garages to allow for room for Mrs. Striplin to fully open her vehicle door.

Board Member Johnson asked Mr. Striplin to clarify the reason for his preference of the 17-foot variance. Mr. Striplin said the 17-foot variance would allow the new garage door size to match the current garage door size.

Ben Davies, representative of the Bison Ridge Owner's Association and Architectural Committee, said the Striplins had gone through the correct steps with the owner's association and architectural review board and the neighbors in the neighborhood, the owner's association and the architectural committee agreed with the request.

Board Member Johnson asked Mr. Striplin if the City's suggestion of 13 feet was acceptable. Mr. Striplin said that he preferred the 17 feet but was in agreeance with the 13 feet. He would need to order a custom garage door if the 13-foot variance was approved.

Chairman Jarrett asked what other variances had been granted in the neighborhood. Mr. Tregaskes said a variance was granted in 2019 at 1991 North Covered Wagon Loop. Most of the garages in the area were set back further from the street-side property line. At the beginning of the development in 2004 and 2005, staff believed that some permits were issued with the measurements taken from the edge of the street instead of the property line. One of the stipulations for granting a variance that was presented today in the staff report stated that a variance could not be approved based on previously approved variances in the same area. Each variance had to be evaluated on its own specific merits. Staff believed that the justification presented to grant Mr. and Mrs. Striplins variance request did not meet state statute and City code requirements. If the Board of Adjustment decided justification existed to grant the variance, as the second variance granted for the same request in the same subdivision, staff recommended that the Board specify in their motion that the homeowner's within the Bison Ridge subdivision get together to amend the plat to reduce the setbacks by plat to alleviate the need to come to the Board of Adjustment for a variance.

Chairman Jarrett asked what other setbacks had been approved in the area. Mr. Tregaskes said the variance granted for 1991 North Covered Wagon Loop allowed the owner to encroach into the 20-foot setback provided the building was at a minimum 20 feet from the edge of the pavement.

Board Member Johnson asked for clarification on the staff recommendation. Mr. Tregaskes said staff recommended a 13-foot variance which would be seven feet from the front property line and a minimum of 20 feet from the edge of the pavement.

Mr. Tregaskes said whether the variance was approved or not approved, the best solution to the issue area-wide would be for the property owners of Bison Ridge to amend the plat to reduce the setbacks.

Chairman Jarrett asked if there was interest from other homeowners to continue to make these requests. Mr. Davies said he was not aware that the homeowners could control the setback requirements by changing the plat. He said he was not made aware of interest from other homeowners until they approached the homeowner's association.

Mr. Tregaskes said to amend a plat, the previously approved plat would need to be taken to an engineer to redo the plat to change the portion of the plat labeled "typical building envelope" detail to reflect the changes in setback requirements. Property owners in the subdivision would need to sign the plat. Once those steps were completed, the amended plat would be presented to the City Council for approval. Each individual plat would need to be amended if other units within Bison Ridge would want to amend the setbacks.

BOARD MEMBER ZIMMERMAN MOVED TO DENY THE VARIANCE APPLICATION SUBMITTED BY MICHAEL AND ARLYNNE STRIPLIN SEEKING RELIEF FROM CITY CODE SECTION 19.80.070D(11), REQUIRED SETBACKS AT 1961 NORTH COVERED WAGON LOOP, A.P.N. 309-70-046, ON THE BASIS THAT THE VARIANCE REQUEST DID NOT MEET THE JUSTIFICATION REQUIREMENTS OF ARIZONA REVISED STATUTES AND CITY CODE AND STRONGLY ENCOURAGED THE BISON RIDGE OWNER'S ASSOCIATION TO AMEND THE PLATS TO CHANGE SETBACK REQUIREMENTS; BOARD MEMBER HANNAH SECONDED THE MOTION; PASSED 3 TO 2 WITH BOARD MEMBERS GIBSON, HANNAH, AND ZIMMERMAN VOTING IN FAVOR AND CHARIMAN JARRETT AND BOARD MEMBER JOHNSON CASTING THE DISSENTING VOTES.

Mr. Tregaskes said the vote by the Board did not negate the option for the owner's association to amend the plat with the reduced setbacks. Amending the plat would achieve Mr. and Mrs. Striplins request without the need for a variance and would also address the issue for the remainder of Bison Ridge Unit 1 or any other units of Bison Ridge that chose to follow the same process.

5. Minutes.

A. Consideration of the Minutes of the Special Meeting of the Show Low Board of Adjustment Held on January 13, 2020.

BOARD MEMBER JOHNSON MOVED TO APPROVE THE MINUTES OF SPECIAL MEETING OF THE BOARD OF ADJUSTMENT OF JANUARY 13, 2020. BOARD MEMBER HANNAH SECONDED THE MOTION. PASSED 5 TO 0 WITH CHARIMAN JARRETT AND BOARD MEMBERS GIBSON, HANNAH, JOHNSON, AND ZIMMERMAN VOTING IN FAVOR.

6. Adjournment.

There being no further business to be brought before the Board of Adjustment,
**CHAIRMAN JARRETT ADJOURNED THE SPECIAL MEETING OF THE SHOW
LOW BOARD OF ADJUSTMENT OF JULY 13, 2022, AT 3:47 PM.**

ATTEST:

APPROVED:

Justen Tregaskes
Planning and Zoning Director

John Jarrett
Chairman

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the **BOARD OF ADJUSTMENT** meeting held on July 13, 2022. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 20____.

Katie Fechtelkotter, Planner